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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/189,819	11/10/1998	AYMAN FAWAZ	ODYS10004WSW	5932

7590

02/19/2003

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EXAMINER

TRAN, PHUC H

ART UNIT

PAPER NUMBER

2666

DATE MAILED: 02/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/189,819

Applicant(s)

FAWAZ ET AL.

Examiner

PHUC H TRAN

Art Unit

2666

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-8, 10-14 and 16-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-8, 10-14 and 16-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 5-7, 10, 14, & 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drysdale et al. (U.S. Patent No. 6058102) in view of Smith et al. (U.S. Patent No. 6452905).

- With respect to claims 5-7, 10, 14, & 16-18, Drysdale teaches a method for controlling congestion in a network (e.g. data transmission system between end user sites) having a plurality of switching points comprising: maintaining a plurality of service level agreements at a first switching point, each SLA having a corresponding minimum data rate (col. 4, lines 7-9); transmitting data packets corresponding to each SLA at or above the minimum data rate in accordance with the respective SLA (col. 5, lines 13-19); receiving a message from a second switching point at the first switching point to indicate that traffic between a source and a destination is congested (col. 6, lines 66-67; col. 7, lines 1-8). Drysdale fails to teach adjusting a data rate at which packets corresponding to an SLA, destined for the destination, are output from the first switching point in response to receiving the message to reduce the congestion. Smith teaches receiving the feedback of congestion for reducing the flow (col. 11, lines 30-35). Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to implement the method of feedback control of in Smith's

Art Unit: 2666

invention into Drysdale for controlling the data rate to avoid congestion and meeting the SLA with customers.

3. Claims 8 & 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drysdale et al. (U.S. Patent No. 6058102) and Smith et al. (U.S. Patent No. 6452905) in further view of Jorgensen (U.S. Patent No. 6452915 B1)

- With respect to claims 8, & 13, Drysdale and Smith disclose all the aspect of the claimed invention as set forth above but fails to teach wherein maintaining SLAs further comprises separating the data packets into different queues corresponding to each different SLA. Jorgensen discloses different queues for different SLA (col. 62, lines 34-47). Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to implement the method of different queues to different SLA for controlling and processing a plurality of signal in communication system.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Drysdale et al. (U.S. Patent No. 6058102) discloses method and apparatus for performing service level analysis of communications network performance metrics.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHUC H TRAN whose telephone number is (703) 308-7471. The examiner can normally be reached on M-F (8-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, RAO SEEMA can be reached on (703) 308-5463. The fax phone numbers for

Art Unit: 2666

the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 872-9314.

Phuc Tran
Assistant Examiner
Art Unit 2664

P.t
February 8, 2003



DANG TON
PRIMARY EXAMINER